

**RULES
OF
THE DEPARTMENT OF GENERAL SERVICES—0690
PURCHASING DIVISION**

**CHAPTER 0690—3—1
PURCHASE OF MATERIALS, SUPPLIES, EQUIPMENT AND SERVICES**

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0690—3—1—.01 AUTHORITY AND SCOPE.

- (1) *Authority.* Tennessee Code Annotated established the Department of General Services and empowered it to coordinate and administer the State's purchases. This statute further created the Purchasing Division within the Department.
- (2) *Governing Body.* Statutes created a Board of Standards to consist of the Commissioner of General Services, the Commissioner of Finance and Administration and the Comptroller of the Treasury. The Board of Standards is charged with the responsibility to develop policy and criteria under which specifications will be established and to examine and approve the rules and regulations governing the purchasing operation of the Department and the Department's purchasing procedures for vendors and for agencies.
- (3) *Scope.* The Department is charged with the centralized procurement responsibility and the exercise of procurement controls over the operating departments and agencies. The Department is empowered to contract for the purchase and/or lease of all materials, supplies, equipment, services, and utilities for the State of Tennessee except those set forth in rule 0690—3—1—.01 (7).
- (4) *Procedures.* It shall be the responsibility of the Commissioner to review the Purchasing Law (Title 12, Chapter 3) and the rules, develop procedures and publish such in order to provide guidance to State departments and vendors to assist them in complying with both the law and the rules regarding the purchase of materials, supplies, equipment and services. All procedures shall be approved by the Board of Standards.
- (5) *Exempt State Agencies.* The following State agencies are exempt by law from purchasing through the Purchasing Division. All exempt agencies must adhere to the policies and procedures of the Board of Standards insofar as practicable and may purchase through the Purchasing Division. Where the Purchasing Division has established term contracts, exempt agencies are required to use such contracts unless they can obtain the product at a lesser cost
 - (a) The General Assembly of the State of Tennessee
 - (b) The University of Tennessee
 - (c) The State University and Community College System
 - (d) The State Technical Institutes

(Rule 0690-3-1-.01, continued)

- (6) *Local Government Purchases.* Local government agencies are authorized by law to purchase through the Department. Requests may be made for one-time purchases or the establishment of term contracts. In addition, all items available on statewide term contracts may be purchased by local government agencies within the geographic limits of the State of Tennessee. Any corporation which is exempted from taxation under 26 U.S.C. Section 501(c)(3) as amended and which contracts within the Department of Mental Health and Mental Retardation to provide services to the public, unless specifically limited by the vendor as a part of the bid, may make purchases from statewide term contracts.
- (7) *Exempt Commodities and Services.*
 - (a) The purchase, lease, construction, management and disposal of interests in highways, bridges, public buildings, and real estate, as well as insurance policies and professional services, are exempt from purchase through the Purchasing Division, but are governed by other laws and regulations. Contracts or services which by their nature are amenable to bidding and which are subject to sufficiently uniform and impersonal criteria so that the Department may properly evaluate bids shall be procured through the Purchasing Division of the Department.
 - (b) The operation of vending machines and vending stands in State facilities is exempt from purchasing through the Purchasing Division in instances where the Blind Services Division of the Department of Human Services prefers to operate the facilities.
 - (c) Agencies desiring to acquire surplus State property must follow the rules and regulations of the Department of General Services, State Personal Property Utilization Division (0690—2—1—.01 et seq.).
 - (d) All agencies are required to purchase items and services from other State agencies, e.g., Department of Correction, Blind Services, whenever such items or services are available therefrom and meet the desired conditions and standards.
- (8) *Delegated Authority.* The Department is authorized to consider the purchasing activity of individual agencies and to delegate limited purchasing authority. Delegated purchasing authority may be limited by type of commodity or service or by dollar amount for formal or informal purchases.

Authority: T.C.A. §§4—3—1101, 4—3—1104, 4—3—1105, 12—3—102, 12—3—103, 12—3—107, 12—3—210, 12—3—401, 12—3—402, 12—3—806, 12—3—1001, 14—14—501 and 33—2—401. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988

0690—3—1—.02 DEFINITIONS.

- (a) "Commissioner" means the Commissioner of the Department of General Services.
- (b) "Data" means recorded information, regardless of form or characteristic.
- (c) "Department" means the Department of General Services.
- (d) "Departmental Computer System" is a computer system, including hardware and software, operated by, controlled by, and located in one department of the State to handle that department's unique data processing applications. A departmental computer system is an individualized, specialized system dedicated to one department.

(Rule 0690-3-1-.02, continued)

- (e) "Invitation to Bid" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
- (f) "Multi-Step Sealed Bidding" is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to evaluate and determine the acceptability of technical offers.
- (g) "Requisitioning Agency" means any department, institution, or agency of the State or political entity in the State of Tennessee that requisitions the purchase of materials, supplies, equipment and services through the Department.
- (h) "Responsible Bidder" means a person who has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (i) "Responsive Bidder" means a person who has submitted a bid which conforms in all material respects to the invitation to bid.
- (j) "Specification" means any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery.
- (k) "Term Contract" means a contract in which a source or sources of supply are established for a specified period of time at an agreed upon unit price(s).

Authority: T.C.A. §12—3—201. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.03 METHODS OF PURCHASING.

- (1) *Competitive Sealed Bid.* With the following exceptions, the Purchasing Division shall mail invitations to bid requesting sealed bids for purchases exceeding \$5,000.00
 - (a) Emergency Purchases. The requirements for a sealed bid may be waived in an emergency purchase situation by the Commissioner.
 - (b) Board of Standards' Approval. Sealed bids are not required for amounts not exceeding \$10,000.00 if approved by the Board of Standards.
- (2) *Informal Written, Verbal or Telephone Quotations.* When sealed bids are not required, unsealed bids, verbal or telephone quotations may be requested. The bids or a record of the quotation shall be made part of the bid file.
- (3) *Single-Source Purchase Contract.* Single-source purchases shall be made only when an item is unique and possesses specific characteristics that can be filled by only one source and must have prior approval

(Rule 0690-3-1-.03, continued)

by the Commissioner. The Purchasing Division in making this determination shall consider factors such as the following:

1. whether the vendor possesses exclusive and/or predominant capabilities or the item contains a patented feature providing a superior utility not obtainable from similar products;
2. whether the product or service is unique and easily established as one of a kind;
3. whether the program requirements can be modified so that competitive products or services may be used;
4. whether the product is available from only one source and not merchandised through wholesalers, jobbers or retailers;
5. whether items must be interchangeable or compatible with in-place items.
After review of the written justification from the requisitioning agency and ascertaining that the item to be purchased meets one or several of the above criteria, the single-source purchase may be made without following competitive bid procedures. A written quote is obtained from the single-source supplier, and a purchase order is issued without resorting to competitive bidding.

(4) *Multi-Step Sealed Bidding.*

- (a) Utilization. The use of a multi-step sealed bidding process is required in the acquisition of departmental computer systems involving the purchase of hardware and the development of application software. The multi-step sealed bidding process may also be used, subject to approval by the Board of Standards, for the procurement of other products or services, when it is not practical to prepare initially definitive specifications which will be suitable to permit an award based on price.
- (b) Process.
 1. In the invitation to bid, the Purchasing Division shall provide the bidder with information describing the functional requirements of the system, purpose of the procurement, technical requirements, bidder qualifications, and any other information considered relevant to the goods or services being acquired.
 2. The bidder shall submit a technical offer sufficient in detail so as to constitute the technical specifications of the purchase.
 3. As specified in the invitation to bid, all technical offers must be received by the State at the designated time and will be opened in the same manner as a competitive sealed bid. Technical offers shall not be made public until the inspection period following evaluation of the bids submitted with prices.
 4. The technical offers shall be evaluated and deemed acceptable, potentially acceptable, or unacceptable by a technical Evaluation Team consisting of representatives of the user agency and the Department, along with others as determined by the procedures of the Department.

(Rule 0690-3-1-.03, continued)

5. **Bid Price.** At the time of the submission of the technical offer or at the conclusion of the evaluation phase of the multi-step sealed bidding process, bidders will be required to submit a bid price clearly defining the cost of their technical offer in accordance with the invitation to bid. The price bids shall not be opened until after evaluation of the technical bids.
 6. **Award.** Each contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation to bid.
- (5) **Proprietary Purchase Contract.** A proprietary product is one that is manufactured and marketed by a person or persons having exclusive right to manufacture and sell the product. Marketing is generally controlled by franchises that may include competitive sales at wholesale or retail levels. When it is found that bids may be obtained from different franchises, a formal bid invitation is issued. Requests for all proprietary purchases require written justification from the requisitioning agency and prior approval by the Commissioner.
 - (6) **Term Contract.** The Purchasing Division may establish a term contract for an individual agency for specific goods or services or a statewide term contract which all State agencies must utilize and which may be used by local governments. Every invitation to bid for a term contract must state the total estimated purchase requirements for the current contract period, if applicable, and for the new contract period. A term contract for more than a period of 12 months (maximum of 60 months) must provide that the State may cancel at any time with no more than one (1) year's notice and at the end of any fiscal year in the event funds are not available. The requirement of a multi-year contract shall be stated in the invitation to bid, and any multi-year contract shall be awarded pursuant to these rules and shall not be for a period longer than 60 months. There shall be no pricing agreement other than in a contract between a vendor(s) and the State.
 - (7) **Utility Contracts.** The Department shall purchase or contract for all telephone, telegraph, electric light, gas, power, postal, and other services for which a rate for the use thereof has been established by a public authority in such manner as the Commissioner deems to be in the best interest of the State of Tennessee. Each such purchase or contract shall be made on a competitive basis, whenever possible, in accordance with these rules and regulations, unless it has been determined that such purchase is single source. If such purchase had been determined to be single source, the purchase shall then be made pursuant to rule 0690—3—1—.03 (3) which governs sole source procurements.

Authority: T.C.A. §§12—3—107(1), 12—3—202, 12—3—203, 12—3—204, 12—3—205, 12—3—206 and 12—3—502. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988. Amendment filed July 29, 1998; effective November 28, 1998.

0690—3—1—.04 QUALIFICATION OF BIDDERS.

In order to be awarded a contract for goods or services, a vendor must be registered with the Purchasing Division of the Department by submitting a vendor's application form for approval pursuant to the Purchasing procedures. A vendor may be removed from a list of eligible vendors for failure to follow the published procedures and requirements. The Purchasing Division shall utilize a Commodity Classification Code to classify and list all vendors.

Authority: T.C.A. §§12—3—107, 12—3—701, 12—3—702 and 12—3—703. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.05 COMPETITIVE NEGOTIATION.

- (1) *Competitive Negotiation.* A contract may be entered into by competitive negotiation only in cases when the State is unable to obtain needed goods and/or services by competitive sealed bid. The Commissioner shall prescribe the procedures under which negotiation is to be conducted. These procedures shall provide for the safeguarding of the information and provide fairness to the vendors in the negotiation process.

In the event it appears that the competitive negotiation process is to be implemented, such an action must be approved by the Commissioner. Once the negotiations have been concluded, a recommendation shall be made by the negotiating team to the Commissioner, and he shall approve the results prior to entering into a contract. All such negotiated contracts shall be reported by the Commissioner to the Board of Standards.

- (2) *Negotiation-GSA.* When a vendor maintains a General Services Administration agreement with the United States of America, or any agency thereof, the Commissioner may negotiate with that vendor, but there shall be no contract price that is higher than the contract price between the General Services Administration and the vendor. Any purchase made pursuant to this provision must have the prior approval of the Board of Standards.

Authority: T.C.A. §§12—3—107, 12—3—207 and 12—3—208. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.06 PREPARATION OF INVITATIONS TO BID, SPECIFICATIONS, REQUISITIONS AND REPORTS.

- (1) *Invitation to Bid.* Each written invitation to bid shall contain:
 - (a) terms and conditions clearly stating the requirements for the bid response and language to bind the parties in the event of award;
 - (b) clear and definitive specifications which shall, whenever possible, permit open and competitive bidding;
 - (c) instructions for packaging, shipping, and delivering the commodity purchased, and, where appropriate, instructions for storage by the vendor; and
 - (d) any requirements for bid and/or performance bonds.
- (2) *Specifications.* The State shall use open specifications and procedures which promote competitive bidding. Vendors are required to notify the Purchasing Division whenever specifications are not open and/or procedures are not desirable. All suggestions or objections shall be made in writing and received by the Purchasing Division at least three (3) working days prior to the bid opening.
- (3) *Requisitions.* The Purchasing Division shall process all requisitions submitted to it by other agencies or departments pursuant to the purchasing guidelines and procedures as published. Each requisition should be submitted to the Purchasing Division at least sixty (60) days prior to the requested delivery date for the goods.
- (4) *Reports.* When requested by the Department, an agency or department shall provide information and statistics to support or clarify estimates for purchases and to verify use of goods or materials within that agency or department. Such reports may be established on a periodic basis when deemed necessary by the Department.

(Rule 0690-3-1-.06, continued)

Authority: T.C.A. §§12—3—107, 12—3—211 and 12—3—502. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.07 BIDS AND PURCHASING RECORDS.

- (1) *Inspection of Purchasing Records.* All records of the Purchasing Division and the Board of Standards shall be available to the public during the regular State office hours. Any inspection of records shall not interfere with the operation of the Department. Where protected by the Public Records statutes, a vendor's financial information disclosed in his bidder's qualification form shall not be disclosed to the public.
- (2) *Inspection of Bids.* Each invitation to bid shall contain a schedule indicating the dates and times for bid opening and evaluation. Interested bidders must contact the Purchasing Agent listed on the invitation to bid by the date and time stated to schedule an appointment to inspect the bid file prior to award. Upon request, a reasonable opportunity to inspect the bid file, as set forth in the invitation to bid, will be provided to the bidder. If there is no request to inspect the bid file by the date and time indicated, the Purchasing Agent will proceed with the award.
- (3) *Amendment or Withdrawal of Bids.* A vendor may withdraw or amend a bid in writing prior to its opening. After bid opening, a vendor may withdraw a bid or a portion thereof only upon a written determination by the Commissioner that there is an obvious error in the bid supported by appropriate vendor cost information and where the enforcement of the bid would impose an unconscionable hardship on the vendor. If no error is made in a bid, but the enforcement of the bid would impose an unconscionable hardship on the vendor, the Commissioner, with the approval of the Board of Standards, may allow the vendor to withdraw its bid.

Authority: T.C.A. §§10—7—504, 10—7—506, 12—3—107, 12—3—203 and 12—3—213. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.08 AWARD.

- (1) *Criteria for Award.* Each contract shall be awarded by the Commissioner by prompt written notice to the lowest responsible and responsive bidder pursuant to either an invitation to bid or an informal quotation request as set forth in rule 0690—3—1—.03(2). Each bid must be signed in ink by the vendor's authorized agent.

Where more than one item is specified in the invitation to bid, the State shall provide in the invitation to bid that it has the right to determine the low vendor(s) either on the basis of each individual item, a group of items or total of all items.

- (2) *Contractual Agreement.*
 - (a) The delivery of a State of Tennessee purchase order or a notice of contract award (for term contracts) with the valid signature of a contracting officer of the Purchasing Division constitutes acceptance of the offer to sell and consummates the binding contractual agreement.
 - (b) Only the Commissioner is authorized to bind the State in contractual agreements. Contracts signed by other State personnel are null and void and do not obligate the State to payment for goods and/or services unless contracted for under authorization of Delegated Purchase Authority or Emergency Purchases.

(Rule 0690-3-1-.08, continued)

- (3) *Evaluation of Technical Offers and Bids.* Technical offers and bids shall be evaluated in accordance with the invitation to bid. Evaluation criteria that will affect the bid price shall be objectively measurable (quantifiable).
- (4) *Time Frame for Award.* Each invitation to bid shall establish a time schedule for the public bid opening, evaluation, and inspection of the bid files.
- (5) *Tie Bids.* A tie bid exists where two or more vendors offer products that meet all specifications, terms and conditions at identical prices, including cash discount offered for prompt payment. In such case, a tie bid will be broken by the following methods, in descending order:
 - (a) in-state business;
 - (b) small business;
 - (c) award item(s) to vendor who was low vendor on other item(s) being bid per the same requisition;
 - (d) best delivery;
 - (e) by lot or coin toss.

Authority: T.C.A. §§12—3—105, 12—3—107, 12—3—203, and 12—3—206. **Administrative History:** *Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.*

0690—3—1—.09 BONDS.

- (1) *Bid Bond.* A bid bond issued by a surety company licensed to do business by the State of Tennessee may be required at the discretion of the Commissioner. When required, the amount of the bid bond shall be stated as a set amount or as a percentage of the Department's estimated value of the contract in response to the invitation to bid. In no event may the amount exceed 5% of the estimated value of the contract. Bid bonds submitted by unsuccessful vendors will be returned upon award of contract. Personal checks are not acceptable in the place of bid bonds. However, bank cashier's checks will be accepted.
- (2) *Performance Bond.* A performance bond issued by a surety company licensed to do business by the State of Tennessee may be required, at the discretion of the Commissioner, in the invitation to bid. When required, the amount of the performance bond shall be stated as a percentage of the contract price (but may not exceed 100 percent of the total contract price) and the amount may be reduced proportionately as performance under the contract moves forward successfully. Performance bonds must be filed with the State of Tennessee within ten (10) working days after receipt of request. Personal checks are not acceptable in the place of performance bonds. However, bank cashier's checks will be accepted. An irrevocable letter of credit or a certificate of deposit, which shall be held by the Purchasing Division, from a State or national bank or a State or federal savings and loan association having its principal office in Tennessee may be accepted by the Purchasing Division in lieu of a performance bond, subject to approval of the terms and conditions of said irrevocable letter of credit or certificate of deposit.

Authority: T.C.A. §12—3—203. **Administrative History:** *Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.*

0690—3—1—.10 AUTHORIZATION FOR SHIPMENT, DELIVERY, RECEIPT, INSPECTION AND STORAGE.

Each invitation to bid and each contract shall clearly state instructions for packaging, shipping, delivery, and, where appropriate, instructions for storage by the vendor.

- (1) *Purchase Orders Required.* Except where exempted in the procedures for vendors, any vendor who manufactures or delivers a product or service without a written purchase order or written notice of award or who delivers a product or service not specifically authorized by the purchase order does so at its own risk.
- (2) *New Equipment.* All material, supplies and equipment offered and furnished must be new unless the invitation to bid specifically permits offers of used or reconditioned items.
- (3) *Substitutions.* A vendor may manufacture or ship an item that materially conforms to or exceeds the specifications, but which may be technically different from the item bid. Substitutions shall require the approval of the Purchasing Division prior to shipment.
- (4) *Shipping.*
 - (a) All packaging shall conform to the current standards acceptable to the trade and required by Interstate Commerce Commission Regulations.
 - (b) F.O.B. points shall be established for each individual purchase. When the F.O.B. is the shipping point, the contractor may prepay the freight charges and add the amount to the invoice when allowed in the invitation to bid. A copy of the freight bill must be attached to each invoice that includes freight charges. Delivery by a contractor to a common carrier does not constitute delivery to State agencies or its political subdivisions.
 - (c) The number of calendar days required for delivery after receipt of order shall be stated in the invitation or the bid, and when no time is stated in either document, the time shall be two weeks.
- (5) *Inspection and Testing.* All materials, equipment, supplies, and services are subject to inspection and testing. Items that do not meet specifications will be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability. When subsequent tests are conducted after receipt and when such tests reveal damage or failure to meet specifications, the State may seek damages regardless of whether a part or all of the merchandise has been consumed.
- (6) *Cancellation of Purchase Orders.* No cancellation of State of Tennessee purchase orders and departmental purchase orders may be made except in writing by the Purchasing Division. Orders may be cancelled without the consent of the contractor in case of any default by the contractor. A contractor may request cancellation and the State may grant relief if the contractor is prevented from performance by an act of war, order of legal authority, act of nature or other unavoidable causes not attributed to the fault or the negligence of the contractor.
- (7) *Agency Storage and Distribution.* It shall be the responsibility of each agency head to have an efficient and effective storage and distribution system for supplies, materials and equipment. The system should include controls to safeguard the supplies, materials and equipment from physical deterioration, loss and theft, and to maintain the optimum quantity on hand to prevent over- and understocking.

Authority: T.C.A. §§4—3—1105, 12—3—107 and 12—3—212. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.11 PURCHASES FROM SMALL BUSINESSES.

In conjunction with the Department of Finance and Administration, the Commissioner shall design and implement procedures to identify small businesses and to monitor purchases from those businesses. The Commissioner shall also develop criteria to be used to determine a business's eligibility to be considered in the State's active solicitation of bids from small business, such criteria to include, but not be limited to, number of employees and annual gross sales.

- (a) Number of Employees. Utilizing the Bureau of Census Publication, County Business Patterns, the Department shall determine the total number of employees in each commodity code industry and select the employee size category comprising a set percentage (as determined annually by the Board of Standards) of total business enterprises in a particular industry.
- (b) Annual Gross Sales. Utilizing the Bureau of Census Publication and related business patterns, the Department shall determine the volume of sales for each commodity code type classification and select the volume of gross sales which will qualify as the maximum limit for a small business (as determined annually by the Board of Standards) of the total business enterprises in a particular industry.

Authority: T.C.A. §§12—3—803, 12—3—804 and 12—3—807. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.12 RESOLUTION OF PROTESTS BY THE COMMISSIONER.

- (1) Upon submission of a protest by a vendor involving a bid, the bid process, a pending award or any other matter involving a vendor, the Commissioner shall, within 15 days of receipt do one of the following:
 - (a) Reject the protest, or
 - (b) Accept the protest and meet the terms of the vendor, or
 - (c) Request additional information or request the vendor to present data to the Commissioner in person at the Commissioner's offices.
 - 1. All requests for information shall be in writing.
 - 2. The vendor shall respond to requests within 15 days of receipt.
 - 3. If an in-person presentation is required, a mutually agreed upon time and date shall be set by the Commissioner. Such a meeting shall be within 10 days after notification to the vendor of such a meeting unless the Commissioner determines that it is in the best interests of the State to extend the time frame.
 - 4. After the Commissioner has received the requested information and/or held an in-person presentation, the Commissioner may extend the time frame and/or request additional information or hold additional in-person presentations.
- (2) The Commissioner shall have no longer than 60 days from receipt of a protest to resolve a protest. The final determination of the Commissioner shall be given in writing and submitted to the protestor and to the Board of Standards.
- (3) In the event that the Commissioner fails to respond to a protest within 15 days of receipt of a protest or fails to resolve the protest within 60 days, the vendor shall have the right to request that the Board of Standards consider the protest.

(Rule 0690-3-1-.12, continued)

- (4) Failure of a vendor to meet the time requirements as stipulated shall result in the rejection of the protest.
- (5) All protests, supporting documentation and the resolution or decisions thereof, shall be filed and maintained by the Purchasing Division in accordance with the Public Records statutes regarding retention.

Authority: T.C.A. §§12—3—107 and 12—3—214. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.

0690—3—1—.13 AMENDING OR REPEALING RULES AND REGULATIONS.

All rules of the Purchasing Division of the Department may be amended or repealed subject to the approval of the Board of Standards and to the publication rules and procedures of the Secretary of State. All purchasing procedures may be amended or repealed subject to the approval of the Board of Standards.

Authority: T.C.A. §12—3—107. **Administrative History:** Original rule filed February 5, 1982; effective June 1, 1982. Amendment filed January 24, 1986; effective April 15, 1986. Repeal and new rule filed November 25, 1987; effective February 28, 1988.